



Children (Scotland) Act 2020

2020 asp 16

Further provision about orders under section 11(1) of the Children (Scotland) Act 1995

PROSPECTIVE

22 Failure to obey order

- (1) The Children (Scotland) Act 1995 is modified as follows.
- (2) After section 11F (which is inserted by section 20(2) of this Act) insert—

“11G Duty to investigate failure to obey order under section 11

- (1) This section applies where a court is considering whether to—
 - (a) find a person in contempt of court for failing to obey an order under section 11, or
 - (b) vary or discharge an order under section 11 on the basis (solely or partly) that a person has failed to obey it.
- (2) If it is satisfied that the person has failed to obey the order, the court must—
 - (a) seek to establish the reasons for that failure, and
 - (b) in so doing—
 - (i) give the child concerned an opportunity to express the child's views in—
 - (A) the manner that the child prefers, or
 - (B) a manner that is suitable to the child if the child has not indicated a preference or it would not be reasonable in the circumstances to accommodate the child's preference, and
 - (ii) have regard to any views expressed by the child, taking into account the child's age and maturity.
- (3) But the court is not required to comply with subsection (2)(b) if satisfied that—
 - (a) the child is not capable of forming a view, or

Status: Point in time view as at 25/10/2021. This version of this provision is prospective.

Changes to legislation: There are currently no known outstanding effects for the Children (Scotland) Act 2020, Section 22. (See end of Document for details)

- (b) the location of the child is not known.
- (4) The child is to be presumed to be capable of forming a view unless the contrary is shown.
- (5) The court may appoint a child welfare reporter to investigate and report to the court on the person's failure (or alleged failure) to obey the order (see section 101A).
- (6) References in this section to an order include an interim order.
- (7) The Scottish Ministers may by regulations modify subsection (5) to—
 - (a) add a description of person,
 - (b) vary a description of person,
 - (c) remove a description of person.
- (8) Regulations under subsection (7) are subject to the affirmative procedure.”.

Status:

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